

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 14, 2008. At the time of the Office Action, Claims 1-20 were pending in this Application. Claims 1-20 were rejected. Claims 1 and 18 have been amended to further define various features of Applicants' invention. Claim 10 has been cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claim 10 was rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 1 and 18 to overcome these rejections and respectfully request full allowance of Claims 1 and 18 as amended.

Rejections under 35 U.S.C. § 102

Claims 1-2, 7-8, 13 and 15-17 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by German Patent No. 29512310 issued to B. Richter ("Richter"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

The Examiner stated that *Richter* discloses all the limitations of the present independent claim. Applicant respectfully disagrees. *Richter* does not discloses an arrangement with a resistor housing provided with air passage openings. *Richter* teaches to

provide for ceramic housing that tightly encloses the resistor to provide for thermal conductivity. *Richter*, page 5, line 20 to page 6, line 27. Openings 13 and 13' are not air passage openings. Rather these openings are for receiving the terminals of the resistor. Richter particularly states that opening 13' can be used for receiving terminal 14 of a shorter resistor. *Richter*, page 5, lines 18-27. Fig. 5 further shows that the openings will be blocked by the resistor itself and thus prevent any type of airflow through the housing. Moreover, the housing is made of ceramic material to conduct the heat of the resistor. The resistor housing is furthermore designed in a circular shape such that it can be in contact with the motor housing to transfer heat to the motor housing and the air. *Richter*, page 6, lines 29 to page 7, line 2. Finally, even if the openings 13 and 13' are considered to be air passage openings which Applicant does not concede, *Richter* does not disclose that the carrier 5 has openings aligned with the resistor housing openings to actually permit any type of air flow. Applicant amended the independent claims to include this limitation as shown in Figs 2-4 of the present application.

Hence the independent claim 1 is not anticipated by *Richter*. Applicants respectfully submit that the dependent Claims 2, 7-8, 13 and 15-17 are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of these dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102, if necessary, and do not concede that the Examiner's proposed combinations are proper.

Rejections under 35 U.S.C. §103

Claims 3-4, 6 and 18-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Richter* as applied to Claim 1 above, and further in view of U.S. Patent No. 5,949,173 issued to Guillermo Willie et al. ("Willie").

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Richter* as applied to Claim 1 above, and further in view of U.S. Patent No. 4,896,067 issued to Bernd Walther ("Walther").

Claims 9 and 11-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Richter* as applied to Claim 1 above, and further in view of U.S. Patent No. 5,821,662 issued to Sadayoshi Kajino et al. (“*Kajino*”).

Claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Richter* as applied to Claim 1 above, and further in view of U.S. Patent No. 4,758,816 issued to Rolf Blessing et al. (“*Blessing*”).

Claim 20 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Richter* and *Willie* as applied to Claim 18 above, and further in view of *Walther*.

Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on *ex post* reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

As stated above, Applicants respectfully submit that the dependent Claims 3-4, 6 and 19 are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the

Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper. Independent Claim 18 includes all the limitations of independent claim 1 and is therefore at least for the same reasons allowable.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants respectfully submit a Petition for One-Month Extension of Time. The Commissioner is authorized to charge the fee of \$120.00 required to Deposit Account 50-2148 in order to effectuate this filing.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
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PATENT APPLICATION
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**APPENDIX
AMENDED DRAWINGS**